JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
NO. 96-17165 CT/AG#:
CV-96-01525-WBS/JFM

DIOS LA IGLESIA DE LAITIES DE SACRED HOLY SACRMMENTO -SACRAMENT, and; JAMES O'LEARY, SR., Reverend
P1aintiffs - Appellants
V.
STATE OF CALIFORNIA; STATE OF CALIFORNIA LANDS COMMISSION; CALIFORNIA DEPARTMENT OF FISH AND GAME; CITY OF WEST SACRAMENTO; RAMOS OIL CO
Defendants - Appellees
and
MARINE SAFETY OFFICE; U.S. COAST GUARD
Defendants

APPEAL FROM the United States District Court for the Eastern District of California (Sacramento) .

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Eastern District of California (Sacramento) and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED.

Filed and entered August 29, 1997

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DIOS LA IGLESIA DE LAITIES DE SACRED HOLY SACRAMENTO - SACRAMENT and JAMES O'LEARY SR., Reverend, Plaintiffs-Appellants, v. STATE OF CLAIFORNIA; STATE OF CALIFORNIA LANDS COMMISSION; CALIFORNIA DEPARTMENT OF FISH AND GAME; CITY OF WEST SACRAMENTO; RAMOS OIL CO., Defendants-Appellees, and MARINE SAFETY OFFICE; U.S. COAST GUARD, Defendants	) No. 96-17165) D.C. No. CV-96-) 01525-WBS/JFM)))) MEMORANDUM*)))))))))

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted August 25, 1997**
Before: SCHROEDER, FERNANDEZ, and RYMER, Circuit Judges

Reverend James O'Leary, Sr. appeals pro se the district court's dismissal of his civil rights under the Younger

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34 (a) ; 9th Cir. R. 34-4. Accordingly, O'Leary's request for oral argument is denied.

abstention doctrine. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

We review de novo a district court's decision to abstain under Younger v. Harris, 401 U.S. 37 (1971). See Wiener v. County of San Diego, 23 F.3d 263, 266 (9th Cir. 1994).

A district court must abstain from exercising jurisdiction where: "(1) state judicial proceedings are pending; (2) the state proceedings involve important state interests; and (3) the state proceedings afford the federal plaintiff an adequate opportunity to litigate federal constitutional claims. Id. (setting forth criteria for abstention under Younger v. Harris, 401 U.S. 37 (1971)).

First, the State of California's action against O'Leary was underway prior to the filing of the federal complaint and the state-court action was still pending when the district court decided to abstain. See Wiener, 23 F.3d at 266-67. Second, the state-court action alleged violations of state nuisance laws, which involve an important state interest. See World Famous Drinking Emporium, Inc. v. City of Tempe, 820 F.2d 1079, 1082-83 (9th 1987). Last, O'Leary did not demonstrate that he was unable to present his federal constitutional claims in state court. See id. at 1083 (concluding that state-initiated nuisance proceedings provide an adequate opportunity to litigate federal constitutional claims) .

Accordingly, because all of the Younger requirements are met, the district court properly abstained. See Wiener, 23 F.3d at 266.

AFFIRMED.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK

DIOS LA IGLESIA DE LAITIES
DE SACRED HOLY SACRAMENTO - SACRAMENT

REVEREND JAMES O'LEARY

PLAINTIFFS

CASE # D. C.

VS.

CV- 96 - 01525

STATE OF CALIFORNIA

KBS - JFM

DEFENDANTS

PROOF OF SERVICE

I HAVE SERVED ALL DEFENDANTS WITH 2 COPIES OF COMPLAINT OF THIS CASE. I HEREBY CERTIFY THAT THIS PETITION FOR CERTIORARI TO THE SUPREME COURT IS PRESENTED ON GOOD FAITH.

GOD BLESS ALL

Reverend James O'Leary

JAMES O'LEARY

PLAINTIFF,

VS.

CITY OF SACRAMENTO, A MUNICIPAL CORPORATION,

CITY OF WEST SACRAMENTO, A MUNICIPAL CORPORATION.

Court seals the fate of one town's symbol

By JEAN PONESSA
GOVERNING MAGAZINE

Religion can be a part of a town's history, community or even its name, but it needs to stay off the city seal.

That's what a federal appeals court ruled when it declared unconstitutional the seals of two northeastern Illinois towns.

"Sectarian religious imagery simply has no place on municipal seals," a 7th U.S. Circuit Court of Appeals panel said.

In the case of Zion, Ill., a town of 19,000, the city seal includes a cross and a banner that reads "God Reigns." The seal was used by the religious community that founded the town in the 1800s.

Former Zion Mayor Adeline Geo-Karis, who also is a state senator, says the seal has been used for years without stifling religious diversity. Religion is part of the history of

• See Seals, Page A7

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